IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1038 of 2004

In

SPECIAL CIVIL APPLICATION No. 16974 of 2003

With

CIVIL APPLICATION No. 2685 of 2004

In

LETTERS PATENT APPEAL No. 1038 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HIRABHAI BHURABHAI - Appellant(s)

Versus

ADMINISTRATIVE OFFICER & 2 - Defendant(s)

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Appearance :

MR PH PATHAK for Petitioner No(s).: 1.

RULE SERVED for Respondent No(s).: 1, 2,3.
MR HS MUNSHAW for Respondent No(s).: 1.
MS.PAUROMI SHETH, AGP for Respondent No(s).: 3.
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 05/08/2005

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

The matter arises out of Special Civil Application No. 16974 of 2003, whereunder the appellant had prayed for issuance of a writ or implementation of earlier writ issued by this Court. The learned Single Judge refused to interfere in the matter, observing that the writ issued by the High Court was challenged in the Letters Patent Appeal therefore interference was not called for. Mr. Munsha, learned counsel for the respondent submits that in accordance with the directions issued by the learned Labour Court, the appellant has been reinstated, he has been paid 35% back-wages for the period between the termination to the date of the award and he has also been paid 35% of the wages from the date of the award till the date of reinstatement. He, however, submits that realising the mistake that 100% wages are to be paid from the date of the award till the date of reinstatement, the respondents are ready and willing to hand over a cheque in the sum of Rs. 40,000/-. It appears that on earlier occasions, the said cheque was offered to Mr. Pathak, but he had refused to accept the same. Today Mr. Pathak has expressed his willingness to accept the cheque. The said cheque is handed over to Mr. Pathak for being given to the appellant. Mr. Pathak submits that the award has not been implemented in full therefore the Court must issue a writ. In our opinion, a writ cannot be issued for implementation of the earlier writ. There are courts and courses open

to the appellant to take appropriate steps in the matter. We find no reason to interfere. The appeal is dismissed. Consequently, Civil Application No. 2685 of 2004 is rejected.

[R.S. GARG, J.]

[RAVI R. TRIPATHI, J.]

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